

NO. W 44,365-01-B

EX PARTE

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IN THE 181ST DISTRICT COURT

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IN AND FOR

ERNEST LOPEZ, II.

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POTTER COUNTY, TEXAS

2010 Affidavit of Alan Richard Cohen, MD

Infant: Isis Charm Vas (DOB 4/26/00; Date of death: 10/29/00)

BEFORE ME, the undersigned Notary, personally appeared ALAN RICHARD COHEN, who, being by me duly sworn, deposed as follows:

My name is ALAN RICHARD COHEN. I am a medical doctor. I am the Chairman of the Department of Pediatrics at the University of Pennsylvania School of Medicine in Philadelphia. I am the Physician-in-Chief at the Children's Hospital of Philadelphia. I am currently board certified in pediatrics and hematology-oncology by the American Board of Pediatrics. I attach a copy of my CV as Exhibit "A" to this affidavit, which shows my medical education, training, and experience. Based upon my education, training, and/or experience, I state that my medical opinions about Isis Charm Vas in this affidavit are made at least to a reasonable medical probability. I am qualified to review medical information, to give these medical opinions, and to make these medical conclusions. I am qualified to address the pediatric hematology issues in this litigation. I have testified as a medical expert in a number of cases involving conclusions about children in state courts over many years. I have reviewed sufficient medical information about this case to give this affidavit. I am willing to appear and testify, under oath, in a court of law about the matters stated in this affidavit.

I have been asked to address the hematology issues raised by Dr. Mark Laposata in his April 2010 affidavit regarding Isis Charm Vas. I understand that this is a post-hearing affidavit. I have been informed that this is a post-conviction proceeding involving allegations of actual innocence. I understand that Judge Alcalá, who is presiding over the *habeas corpus writ* litigation, has stated that he will consider my affidavit if it is received by July 1, 2010 and in proper form. I am asking Judge Alcalá or any other judge, who may review this case, to consider my medical opinion(s) and comments.

I have reviewed relevant information from the following, which was supplied to me by the 47th District Attorney's Office in Amarillo regarding Isis Charm Vas: (1) 174 pages of Northwest Texas Hospital records including laboratory test results and Dr. McClain's autopsy report; (2) two skeletal x-rays, autopsy photographs, sexual assault examination photographs, and photographs at the hospital of Isis Vas; (3) pediatric records from Children's Healthcare Associates in Amarillo; (4) Lifegift

records; and (5) the September 22, 2009 affidavit of Roger Brown of the United Network for Organ Sharing regarding follow-up about the infant's transplanted liver.

I am addressing the question as to whether there was any underlying inherited or acquired bleeding disorder that may have been responsible for the death of Isis Vas. Dr. Laposata, apparently relying on laboratory results provided to him by telephone, concluded that this six month old girl had a coagulopathy for "some days prior to her collapse..." He suggests various causes of such a coagulopathy, giving most prominent attention to an inherited bleeding disorder such as hemophilia or an acquired disorder of the liver that could cause bleeding because of organ failure. It is important to assess these conclusions not only on laboratory results but also on the entire clinical context. I have taken the latter approach by reviewing extensive medical records in addition to the laboratory data.

In 32 years of practice in pediatric hematology at one of the largest pediatric hospitals in the United States, I have never seen or read about an inherited bleeding disorder presenting with the severity of hemorrhage and multiplicity of bleeding sites as occurred in the case of Isis Vas. She had diffuse bruising of her face, chest, abdomen and groin, and arms. In addition, she had extensive intracranial hemorrhage and bilateral retinal hemorrhages. It is important to note that all of this bruising and bleeding occurred in a 6 month old infant who had not yet reached the development level of walking and therefore was unlikely to have sustained diffuse bruising much less intracranial and retinal bleeding. Moreover, von Willebrand disease, identified by Dr. Laposata as a common inherited bleeding disorder that has been mistaken for child abuse, is only common in a mild form that never produces the array of findings that occurred in Isis Vas and often goes undiagnosed throughout a lifetime. The two most common forms of hemophilia, factor VIII and factor IX deficiency, occur almost exclusively in boys and even these disorders, which can be serious, do not cause such severe and diffuse bruising and bleeding as was found in Isis Vas, either spontaneously or with mild trauma.

Dr. Laposata posits the presence of severe liver disease as an alternative cause of the infant's bleeding. He bases this opinion on the presence of a low albumin level and elevated liver transaminases. This argument is fully negated by the fact that Isis Vas's liver was deemed healthy enough to be donated for transplant and, most notably, the recipient of the transplanted liver is still living eight years later. The degree of liver disease required to cause severe bleeding does not reverse itself so quickly as to make a suitable organ for transplant, and the survival of the recipient eight years later argues against any chronic liver disease in this case.

Dr. Laposata mentions other disorders such as vitamin K deficiency, idiopathic thrombocytopenic purpura, Henoch-Schonlein purpura and meningitis that may also be confused with child abuse. However, there is no evidence from laboratory studies or from the autopsy results to support any of these diagnoses.

Dr. Laposata also argues that the greater prolongation of the PTT than the PT indicates an underlying bleeding problem, further complicated by DIC. However, in the clinical setting, one quickly recognizes that the laboratory values in brain trauma-induced DIC do not follow a single pattern, and unusually long PTT values are either part of the overall picture or, in some instances, related to how the blood sample is drawn (e.g., contamination with heparin in the intravenous fluids). In any event, the overall clinical and laboratory findings in this infant are not indicative of an underlying acute or chronic bleeding problem.

Based upon my review of the information above and/or as explained, I strongly disagree with Dr. Laposata's conclusions that (1) "the laboratory tests are dispositive that this child [Isis Vas] had a coagulopathy for some days prior to her collapse, possibly complicated by DIC." (see Laposata affidavit § 9); (2) "the tests that were conducted establish that the coagulopathy is likely to include more than one bleeding disorder, not only disseminated intravascular coagulation (DIC);" (see Laposata affidavit § 5); and (3) since additional laboratory tests were not performed, "it is not possible to determine the cause and nature of this child's bleeding disorder with any certainty." (see Laposata affidavit § 5).

In summary, the severe and diffuse bruising and bleeding in this case, including intracranial hemorrhage and bilateral retinal hemorrhages, are the classic findings of child abuse, and a careful review of the medical record, including the history, physical examinations, hospital course, laboratory results and other documents, shows no evidence of another acute or chronic disease to account for the fatal outcome.

Alan Richard Cohen

Alan Richard Cohen, M.D.

SUBSCRIBED TO AND SWORN before me the 18 day of June, 2010.

Date My Notary Commission Expires:

9/30/2013

Suzanne L. Gronkowski

Notary Public, State of Pennsylvania, Signature

Suzanne L. Gronkowski

Notary's Printed Name

